

INITIAL STATEMENT OF REASONS

Amendment of CCR Section 575.1 – Deposit of Contributions, and Amendment of CCR Section 575.2 – Deposit of Contributions Pursuant to Government Code Section 21073.1

Description of Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Regulation is Intended to Address:

Pursuant to its authority under the Public Employees' Retirement Law (PERL) Government Code section 20000, et seq., the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) administers retirement benefits for over 1.4 million active, inactive, and retired members and beneficiaries. The Board also has general authority under Government Code sections 20120 and 20121 to manage and control CalPERS, JRS, JRS II, make rules, and take regulatory action.

CCR Section 575.1 Problem and Proposed Amendment

Government Code section 20750 authorizes CalPERS members to elect and make lump sum or installment payments to purchase qualifying service credit periods by redepositing previously withdrawn member contributions, plus interest. This section also provides that members be charged the "member interest crediting rate" (currently 6%, compounded annually) in effect on the effective date of the member's election and throughout the installment payment period to purchase the service credit. The member interest crediting rate has been statutorily set at 6% since 1991, under Government Code section 20178.

With the exception of Government Code section 20750 for redeposit payments, the member interest rate to be used for the other types of service credit purchases through installment payments is not specified by law or regulation. Historically, the installment interest rate charged by CalPERS for the other types of service credit purchases has also been the member interest crediting rate in effect on the effective date of the member's election to purchase the service credit. However, the Board in March 2004 decided that service credit types calculated pursuant to Government Code section 21052, which require the member to pay an amount "...equal to the increase in employer liability...", were intended to be cost neutral to the employer. This is accomplished by establishing that the installment payment interest rate charged to members be equal to the "actuarial interest rate" (currently 7.75%) that is used to actuarially calculate the benefit liability. (Using instead the 6% member interest crediting rate would not meet the objective of cost neutrality to the employer, due to this difference in interest rates causing a gap in funding the full benefit liability.)

California Code of Regulations (CCR), Title 2, section 575.1, implements, interprets, and makes specific various conditions under which an eligible member may purchase such service credit by making installment payments to CalPERS, but does not specify the interest rate to be applied during the member's period of installment payments. CCR section 575.1 authorizes members to purchase such service credit subject to the existing installment payment requirements (a) through (c), which do not make any reference to "interest rate".

The proposed amendment to CCR section 575.1, by adding the proposed subsections (d), (e), and (f) would establish by regulation the interest rates which CalPERS will apply to such service credit purchases and contribution adjustments. The minor revision to other language in CCR section 575.1 makes language more consistent in CCR sections 575.1 and 575.2. This amendment would also establish by regulation the interest rates for specific Judges' Retirement System and Judges' Retirement System II service credit purchases made pursuant to Government Code sections 75030.8 and 75506.5.

The proposed CCR subsection 575.1(d) would establish that, except as provided in subsections (e) and (f), for service credit purchases and contribution adjustments subject to CCR section 575.1, the interest applied on the unpaid balance shall be the interest rate (the member interest crediting rate, currently 6% compounded annually) provided in Government Code section 20178 on the effective date of the member's service credit election or contribution adjustment. This interest rate shall apply from the effective date of the service credit election or contribution adjustment through the completion of payments.

The proposed CCR subsection 575.1(e) would establish that, for service credit purchases subject to Government Code section 21052, the interest applied on the unpaid balance shall be the actuarial interest rate (currently 7.75%) used in the calculation of the benefit liability. This interest rate shall apply from the effective date of the service credit election or contribution adjustment through the completion of payments.

The proposed CCR subsection 575.1(f) would establish that for judges' service credit purchases subject to Government Code sections 75030.8 and 75506.5, the interest applied on the unpaid balance shall be the actuarial interest rate (currently 7.75%) used in the calculation of the benefit liability. This interest rate shall apply from the effective date of the service credit election or contribution adjustment through the completion of payments.

An additional paragraph is added to clarify that the interest will accrue as if the applicable rate remains in effect throughout the period of the member's installment payments and until the completion date of payments.

CCR Section 575.2 Problem and Proposed Amendment

Government Code section 21073.1(a) authorizes CalPERS members who elect to convert from State Second Tier retirement benefits to State First Tier retirement benefits, pursuant to Government Code section 21073.7, to purchase the past credited service as First Tier service on an installment basis as prescribed by regulations of the Board, but does not specify the interest rate to be applied during the member's period of installment payments. Government Code section 21073.1(b) authorizes the Board to adopt regulations implementing this process and, as stated above, exempts the proposed regulatory amendments to CCR section 575.2 from review by the Office of Administrative Law.

The interest rate to be charged members during installment payment periods for this conversion of CalPERS service credit from State Second Tier to the State First Tier is also not specified by law or regulation. Historically, the installment interest rate charged by CalPERS for this type of service credit conversion has also been the member interest crediting rate in effect at the time of the member's election, which since 1991 has been 6%, compounded annually.

CCR section 575.2 (Title 2, California Code of Regulations) implements, interprets and makes specific Government Code section 21073.1 by authorizing CalPERS members converting from the State Second Tier to the State First Tier to purchase the past service as First Tier service, subject to the existing installment payment requirements (a) through (c), which do not make any reference to "interest rate".

The proposed amendment to CCR section 575.2 would establish as CalPERS regulation in proposed subsection (d) that, for State First Tier service credit conversions pursuant to Government Code section 21073.1, the interest applied on the unpaid balance shall be the interest rate (member interest crediting rate, currently 6% compounded annually) provided in Government Code section 20178 in effect on the effective date of the member's election to deposit contributions.

Consistent with the proposed amendment to CCR section 575.1, an additional paragraph is added to clarify that interest will accrue as if the applicable rate remains in effect throughout the period of the member's installment payments and until the completion date of payments.

Specific Purposes:

The purpose of amended CCR section 575.1 is to facilitate and formalize, by establishing as regulation, the interest rate to apply on installment payments by members with a contribution adjustment or purchasing elective service credit pursuant to various service credit provisions available to members of the California Public Employees' Retirement System, the Judges' Retirement System, and the Judges' Retirement System II.

The purpose of amended CCR section 575.2 is to facilitate and formalize the full implementation of Government Code section 21073.1 by establishing as regulation the interest rate to apply on installment payments by members depositing contributions to convert their past State Second Tier service to State First Tier service, pursuant to Government Code section 21073.1.

Necessity:

These actions are necessary to clarify and establish as CalPERS regulation the interest rates to apply during installment payment periods for members with contribution adjustments or purchasing or converting CalPERS service credit under the applicable provisions of the Public Employees' Retirement Law, the Judges' Retirement Law, and the Judges' Retirement System II Law.

Technical, Theoretical and/or Empirical Studies, Reports or Documents:

Not applicable

Alternatives to the Regulatory Action and CalPERS' Reasons for Rejecting Those Alternatives:

CalPERS has considered alternatives to this proposal, and has determined that there is no more effective way to carry out its purpose that would be less burdensome.

Alternatives to the Regulatory Action that Would Lessen any Adverse Impact on Small Businesses:

The proposed action has no cost impact either on small businesses or on persons in the private sector.